HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.10708 of 2001

Dated 19th day of July, 2006

Between:

Mulla Md. Ibrahim and two others .. Petitioners

And

The Commissioner,
Yemmigahur Municipality,
Yemmiganur, Kurnool District
And another .. Respondents

O R D E R:

The grievance of the petitioners is that the respondents are trying to demolish the petitioners' buildings and other structures for the purpose of laying drainage or road or encroaching into the petitioners' private property in S.No.296/C, Yemmiganur Municipality without having recourse to the laws in existence.

This Court, while ordering Rule Nisi, directed the respondents to stay all further proceedings including laying of parallel drainage line and road, vide its order dated 4.6.2001. Thereafter, the respondents-Corporation came up with a petition to vacate the stay and this Court after hearing both the counsel, vacated the stay by an order dated 18.7.2002. From a perusal of the counter, it is clear that the Municipality is not undertaking any parallel drainage to the existing drain and it is further averred that the petitioners' buildings or structures are not affected in the reconstruction of drainage and no steps are taken to demolish the petitioners' buildings. However, the learned

counsel for the petitioners tried to establish before this Court that an Advocate Commissioner was appointed and the Commissioner's report clearly establishes the fact that the land belonging to the petitioners is trying to be encroached by the respondents-Corporation.

I am afraid, these proceedings cannot be gone into by this Court under Article 226 of the Constitution of India and these are of purely matters of fact and they are to be decided by a competent civil Court. If the petitioners have any grievance, it is always open for them to approach a competent Civil Court for redressal of their grievances. It is brought to the notice of this Court by the learned standing Counsel for the respondents that the suit instituted by the petitioners ended in favour of the Municipality. However, no material is placed before this Court.

Hence, this Court is of the view that these rights are purely of civil in nature which are to be decided by a competent civil Court and as such, the writ petition is devoid of merits and accordingly, the same is dismissed. However, as observed, if the petitioners have any grievance and if no suit is already filed and decided, they can agitate the same by way of filing a suit in a competent civil Court. No costs.

19.07.2006
bcj